

**LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

200 W. Washington, Suite 301
Indianapolis, IN 46204
(317) 233-0696
<http://www.in.gov/legislative>

FISCAL IMPACT STATEMENT

LS 7071

BILL NUMBER: HB 1217

NOTE PREPARED: Jan 5, 2006

BILL AMENDED:

SUBJECT: Proof of Ownership of Stock Before Sale.

FIRST AUTHOR: Rep. Cheney

FIRST SPONSOR:

BILL STATUS: As Introduced

FUNDS AFFECTED: X GENERAL
X DEDICATED
FEDERAL

IMPACT: State & Local

Summary of Legislation: This bill requires a person who offers to sell a security or interest in a security to a person to: (1) show proof of ownership of the security; or (2) promptly deliver the security to the purchaser.

Effective Date: July 1, 2006.

Explanation of State Expenditures: This bill requires a person who offers to sell a security or interest in a security to a person to: (1) show proof of ownership of the security; or (2) promptly deliver the security to the purchaser. A person who knowingly violates this requirement commits a Class C felony.

A Class C felony is punishable by a prison term ranging from 2 to 8 years, depending upon mitigating and aggravating circumstances. The average expenditure to house an adult offender was \$20,977 in FY 2005. (This does not include the cost of new construction.) If offenders can be housed in existing facilities with no additional staff, the average cost for medical care, food, and clothing is approximately \$1,825 annually, or \$5 daily, per prisoner. The estimated average cost of housing a juvenile in a state juvenile facility was \$62,292. The average length of stay in Department of Correction (DOC) facilities for all Class C felony offenders is approximately two years.

Explanation of State Revenues: If the Commissioner of the Securities Division of the Secretary of State determines, after notice and opportunity for a hearing, that any person has violated the provisions of this bill, the Commissioner may, in addition to or in lieu of all other remedies, impose a civil penalty upon any person who has violated these ownership requirements. The penalty may not exceed \$10,000 for each violation. Penalties collected under this provision are deposited in the Securities Division Enforcement Account.

Current law also allows the Commissioner to suspend, revoke, or censure the registration of a broker-dealer who violates the proof of ownership requirements. The Commissioner may also enter an order of rescission, restitution, or disgorgement, including interest at the rate of 8% per year, directed to a person who has violated this provision.

If additional court cases occur and fines are collected, revenue to both the Common School Fund and the state General Fund would increase. The maximum fine for a Class C felony is \$10,000. Criminal fines are deposited in the Common School Fund.

If the case is filed in a circuit, superior, or county court, 70% of the \$120 court fee that is assessed and collected when a guilty verdict is entered would be deposited in the state General Fund. If the case is filed in a city or town court, 55% of the fee would be deposited in the state General Fund.

Explanation of Local Expenditures: If more defendants are detained in county jails prior to their court hearings, local expenditures for jail operations may increase. The average cost per day is approximately \$44.

Explanation of Local Revenues: If additional court actions occur and a guilty verdict is entered, local governments would receive revenue from the following sources: (1) The county general fund would receive 27% of the \$120 court fee that is assessed in a court of record. Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record may receive 3% of court fees. (2) A \$3 fee would be assessed and, if collected, would be deposited into the county law enforcement continuing education fund. (3) A \$2 jury fee is assessed and, if collected, would be deposited into the county user fee fund to supplement the compensation of jury members.

State Agencies Affected: Department of Correction.

Local Agencies Affected: Trial courts, local law enforcement agencies.

Information Sources: Indiana Sheriffs' Association, Department of Correction.

Fiscal Analyst: Adam Brown, 317-232-9854.